

**PROPOSED**

**SUPERIOR COURT RULE 23**

**LIMITED ASSISTANCE REPRESENTATION**

**(Applicable to All Counties)**

Limited Assistance Representation (LAR) permits an attorney to assist a self-represented litigant with part of a legal matter without undertaking the entire case. The attorney and client agree on discrete tasks that the attorney will handle and the remainder, which the litigant will handle. The attorney can provide these unbundled services for a fee or *pro bono*.

The following procedures govern LAR in the Superior Court Department in civil matters currently pending or filed after the effective date of this Rule. These procedures apply notwithstanding any provision to the contrary in any Rule of Court or Standing Order. To supplement these procedures, the judge in an individual case may enter orders as necessary to further the goals of this Rule and to promote access to, and the administration of, justice.

1. Attorney Qualification

To become qualified to provide LAR, a licensed Massachusetts attorney must read the Limited Assistance Training Manual, available on the Trial Court website at <http://www.mass.gov/courts/programs/legal-assistance/lar-gen.com.html>, or attend an in-person training program approved under the Uniform Protocol for Limited Assistance Representation Training in the Massachusetts Trial Court.

2. Agreement on Scope of Assistance

A qualified attorney may limit the scope of his or her assistance to a client if the limitation is reasonable under the circumstances and the client gives informed consent. The attorney and client must agree in writing on the discrete events or issues that the attorney will handle.

3. Notice of Limited Appearance

An attorney who appears for a litigant in a limited capacity must file with the court clerk a Notice of Limited Appearance, in the form set forth in the Superior Court Appendix of Forms and on the Superior Court website. By filing the Notice, the attorney certifies that he or she is qualified to provide LAR, that the attorney and client have agreed on the scope of the attorney's assistance, and that the attorney is in compliance with this Rule. The Notice must state clearly the court events that the attorney will handle and, for any event for which the attorney will handle fewer than all issues, the notice must identify the discrete issues that the attorney will cover. An appearance for a Court Event extends to

all issues scheduled or reasonably anticipated to be considered at the event, unless the court permits otherwise. The attorney may file a new Notice during or after an event, with the agreement of the client.

An attorney may not enter a limited appearance for the sole purpose of making evidentiary objections or seeking continuances. The attorney and client may not argue the same legal issue during the period of the attorney's limited assistance without the court's permission. For any Court Event handled by counsel in a limited capacity, the litigant must also attend the event, unless the court permits otherwise.

A pleading, motion, or other document filed by an attorney making a limited appearance must comply with Rule 11(a), of the Massachusetts Rules of Civil Procedure, and must state, in boldface type on the signature page: “**Attorney of [party] for the limited purpose of [Court Event].**” An attorney who files a pleading, motion, or other document outside the scope of the limited appearance will be considered to have entered a general appearance, unless the attorney files a new Notice of Limited Appearance with the pleading, motion, or other document. Except as set forth in paragraph 4, the court may not require the attorney to represent the client at any court event beyond the scope of the agreement described in the Notice of Limited Appearance.

#### 4. Notice of Withdrawal

Upon completion of the representation encompassed by the limited appearance, the attorney must promptly withdraw by serving and filing with the court clerk a Notice of Withdrawal of Limited Appearance, in the form accompanying this Rule. A Notice of Withdrawal must be filed for each Notice of Limited Appearance. The Notice of Withdrawal must include the client's name, address, telephone number, and e-mail address, unless otherwise provided by law. The attorney must sign the Notice of Withdrawal, which must be served on the client.

The attorney has no right to enforce the limitations upon representation until the Notice of Withdrawal is filed, but may ask the court for discretionary enforcement, if equitable despite the delay in filing. To avoid delay or other impediment to case management or the administration of justice, the Court may treat the attorney as appearing for the client until the attorney files a Notice of Withdrawal, even if the events or issues covered by the limited representation have concluded. The Court may also order the attorney to file a Notice of Withdrawal. If any other party unavoidably incurs costs or is prejudiced by the attorney's failure to file a Notice of Withdrawal, the court may order a non-punitive remedy, including compensation for fees and costs unnecessarily incurred, upon motion.

A Notice of Withdrawal filed and served in compliance with this paragraph is effective upon filing. No motion to withdraw under Mass. R. Civ. P. 11(c) is required.

5. Service

Whenever service is required or permitted to be made on a party represented by an attorney making a limited appearance, for all matters within the scope of the limited appearance the service must be made on both the attorney and the party. Service on the party must be made at the address listed for the party on the Notice of Limited Appearance. If the party's address has been impounded, service must be made as required by the court or by rule. For matters outside the scope of the attorney's limited appearance, service on the attorney is not required.

6. Assistance in the Preparation of Documents ("Ghostwriting")

An attorney may assist a client in preparing a pleading, motion, or other document to be signed and filed in court by the client, a practice sometimes referred to as "ghostwriting." In such cases, the attorney must insert on the document the notation "prepared with assistance of counsel." The attorney is not required to sign the document, and the filing of it will not constitute an appearance by the attorney. The client remains responsible to the court and other parties for all statements in any pleading, motion, or other document prepared but not signed by an attorney.